

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

KOMATSU FINANCIAL LIMITED PARTNERSHIP,

Plaintiff,

v.

CIVIL ACTION NO. 5:18-cv-01336

KIRBY LAND COMPANY, INC.,

Defendant.

AMENDED SCHEDULING ORDER

For reasons appearing to the Court, the *Scheduling Order* previously entered is **AMENDED** as follows:

- 1) **Settlement Meeting:** No later than **January 6, 2020**, the parties and their lead trial counsel shall meet and conduct negotiations looking toward the settlement of the action, and counsel will be prepared at the pretrial conference to certify that they have done so. Counsel for the plaintiff shall take the initiative in scheduling the settlement meeting, and all other counsel shall cooperate to effect such negotiations. Any mediation scheduled by the parties must be concluded no later than the settlement meeting date. If the action is not settled during the settlement meeting or mediation session, and if there is no order or stipulation to the contrary, counsel and unrepresented parties shall make all Rule 26(a)(3) disclosures at the conclusion of the meeting or session.

2) **Motions in Limine:** All motions in limine shall be filed and served by **January 13, 2020**, with responses due by **January 20, 2020**.

3) **Proposed Integrated Pretrial Order:** The plaintiff portion of the proposed integrated pretrial order shall be submitted to opposing counsel by **January 9, 2020**, who shall then prepare and complete the opposing portion thereof and submit the proposed integrated pretrial order, signed by all counsel, to the Court for entry no later than **January 16, 2020**. The proposed integrated pretrial order, signed by all counsel and unrepresented parties, shall set forth the matters listed in Local Rule of Civil Procedure 16.7(b).

4) **Pretrial Conference:** A pretrial conference shall be held on **February 3, 2020, at 11:00 a.m.** at which lead trial counsel shall appear fully prepared to discuss all aspects of the case. Individuals with full authority to settle the case for each party shall be present **in person**.

5) **Proposed Charges to the Jury:** The original and one copy of proposed jury instructions, numbered and in charge form, on substantive theories of recovery or defense, on damages and on evidentiary matters peculiar to the case, and special interrogatories, if any be appropriate to the case, requested by counsel for submission to the jury, together with a verdict form, shall be exchanged by counsel and submitted to the presiding District Judge by **February 18, 2020**. On that same date, the proposed jury instructions and verdict form shall also be submitted to the presiding District Judge in Word compatible format or emailed to chambers according to instructions provided by the Court's law clerk.

6) **Final Settlement Conference:** A final settlement conference, attended by all unrepresented parties and by lead trial counsel for each represented party, shall be held on **February 24, 2020, at 1:30 p.m.**, or as earlier directed by the Court. Individuals with full authority to settle the case for each party shall be present **in person**.

7) **Trial:** Trial of this action shall be held on **February 25, 2020, at 9:00 a.m.**, before the undersigned. Trial will commence upon completion of jury selection in any other case scheduled for this date. This case is presently the fourth case on the trial docket for that week.

8) **Failure to Appear or Negotiate:** Should lead trial counsel fail to appear at any pre-trial conference or otherwise fail to meet and confer in good faith with opposing counsel as required in the “Settlement Meeting” paragraph above, or should a party or his authorized representative fail to appear or be available at any conference or otherwise fail to meet and confer in good faith as required in the “Settlement Meeting” paragraph above, appropriate sanctions may be imposed, including, but not limited to, sanctions by way of imposition of attorney fees against the attorney and/or his client pursuant to Fed R Civ P Rule 16(f).

The dates listed above are summarized in the following table:

Deadline	Date
Dispositive motions deadline	11/08/2019
Response to dispositive motions	11/20/2019
Reply to response to dispositive motions	11/27/2019
Settlement meeting	01/06/2020
Motion in limine deadline	01/13/2020
Responses for motions in limine	01/20/2020
Proposed pretrial order to defendant	01/09/2020
Integrated pretrial order	01/16/2020
Pretrial conference	02/03/2020 11:00 AM
Proposed jury charge	02/18/2020
Final settlement conference	02/24/2020 1:30 PM
Trial	02/25/2020 9:00 AM

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: November 6, 2019



A handwritten signature in black ink that reads "Frank W. Volk".

Frank W. Volk
United States District Judge